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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

RETROPHIN, INC., a Delaware Corporation,

Plaintiff,

vs.

QUESTCOR PHARMACEUTICALS, INC., a California Corporation,

Defendant.

CASE NO. SACV14-00026-JLS(JPRx)

COMPLAINT FOR:
1. **RESTRAINT OF TRADE IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT (15 U.S.C. § 1 ET SEQ.)**
2. **MONOPOLIZATION IN VIOLATION OF SECTION 2 OF THE SHERMAN ACT (15 U.S.C. § 2 ET SEQ.)**
3. **ATTEMPTED MONOPOLIZATION IN VIOLATION OF SECTION 2 OF THE SHERMAN ACT (15 U.S.C. § 2 ET SEQ.)**
4. **UNLAWFUL MERGER IN VIOLATION OF SECTION 7 OF THE CLAYTON ACT (15 U.S.C. § 18 ET SEQ.)**
5. **VIOLATION OF CALIFORNIA ANTITRUST LAWS**
6. **VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAWS**

DEMAND FOR JURY TRIAL

Plaintiff Retrophin, Inc. ("Retrophin"), as and for its complaint against Defendant Questcor Pharmaceuticals, Inc. ("Questcor"), alleges as follows:

Nature of the Action

1. Questcor is a monopolist. It is the sole provider in the US of approved therapeutic preparations of adrenocorticotropic hormone ("ACTH"), a drug used to treat certain life threatening and often fatal diseases. Questcor's ACTH drug is sold under the brand name H.P. Acthar Gel ("Acthar"). The drug is not patented.

2. Questcor acquired the rights to Acthar in 2001. At the time, Acthar sold for $50 a vial or less. Since then, Questcor has raised the price to $28,000 – a 56,000% price increase.

3. Questcor is able to charge such an extortionate price for Acthar because it holds a monopoly in the US. Its monopoly exists for several reasons. First, Acthar is the only long acting ACTH therapeutic drug approved by the Food and Drug Administration ("FDA") for use in the US. Second, Acthar is the most effective and dominant first line treatment for Infantile Spasms, an often fatal disorder that causes epileptic type seizures in babies, toddlers and children under the age of 5. In addition, Questcor has obtained "Orphan Drug Designation" for Acthar from the FDA under the Orphan Drug Act, 21 USC §§301 *et seq*., giving it the exclusive right to market Acthar – and its chemical equivalent – for use in treating Infantile Spasms. Third, Acthar is also the most commonly used treatment of last resort for patients suffering from Nephrotic Syndrome, a condition that results in excessive protein being secreted through the urine that destroys the kidneys and can lead to kidney failure. Treatments of last resort, as the term implies, are used for patients who do not respond to or cannot tolerate other therapies used to treat their illness.

4. In June of 2013, plaintiff Retrophin was poised to challenge Questcor's monopoly. It had negotiated an agreement to purchase from Novartis AG ("Novartis"), the rights to sell in the US a product called Synacthen, an ACTH drug that contains the same sequence of the first 24 amino acids that is found in Acthar.

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While there are differences between Acthar and Synacthen – the two are not chemically identical beyond the first 24 amino acids and they are produced differently – Synacthen has been sold for years outside of the US for the treatment of Infantile Spasms, Nephrotic Syndrome, Multiple Sclerosis and other diseases. On information and belief, it is not currently sold in the US because it has never been submitted to the FDA for approval.

5. Retrophin planned to obtain FDA approval to sell Synacthen in the US and compete head to head against Questor by dramatically undercutting Questcor's price for Acthar. It had negotiated and was ready to sign an agreement to purchase the US rights to Synacthen from Novartis. The signing was scheduled for June 11, 2013. The signing of the agreement was so imminent that a press release had been prepared to announce the deal.

6. On June 11, 2013, the day Retrophin was to sign its agreement with Novartis, Questcor swept in and acquired the rights to Synacthen. In so doing, it preserved and entrenched its ACTH monopoly in the US and eliminated the competitive threat posed by Retrophin's acquisition of Synacthen. There was no procompetitive aspect of Questcor's acquisition of Synacthen.

7. When it acquired the rights to Acthar, Questcor did not make a Premerger Notification Filing with the Department of Justice and the Federal Trade Commission under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 USC, §18a *et seq.*

8. Questcor was quite aware, however, that its agreement with Novartis raised serious antitrust questions. The agreement provides that, if Questcor is forced to divest its rights to Synacthen on antitrust grounds, Novartis will keep the entire $60 million that Questcor had paid it. In addition, Questcor remains obligated to make all future milestone payments owed to Novartis under that agreement – an amount in excess of $75 million. Questcor has accepted the entire economic risk – an amount in

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excess of $135 million – that the agreement with Novartis would be deemed illegal under the antitrust laws.

9. Questcor's acquisition of Synacthen has delayed, and may completely foreclose, Retrophin's entry into the markets defined below. It will delay, and may completely prevent, Retrophin from competing against Questcor. Retrophin brings this lawsuit to recover the damages it has incurred as a result of Questcor's anticompetitive and monopolistic conduct. It also seeks injunctive relief against Questcor's continuation of such conduct.

The Parties

10. Plaintiff Retrophin is organized and exists under the laws of Delaware. Its principal place of business is located at 777 Third Avenue, 22nd Floor, New York, New York 10017. It also does business in California and Massachusetts.

11. Retrophin is a biopharmaceutical company focused on the development, acquisition and commercialization of drugs for the treatment of serious, catastrophic or rare diseases for which there are currently no viable options for patients. The diseases on which Retrophin focuses are often considered "orphan" diseases because they affect fewer than 200,000 patients in the United States. Retrophin has acquired and is building a pipeline of innovative product candidates for several catastrophic diseases, including: Focal Segmental Glomerulosclerosis, a kidney disease; Pantothenate Kinase-Associated Neurodgeneration; and Duchenne Muscular Dystrophy.

12. Defendant Questcor is a corporation organized and existing under the laws of the State of California. It maintains its principal place of business in Anaheim, California.

Jurisdiction and Venue

13. Retrophin brings this action under Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§15 and 26, to recover treble damages and costs of suit, including reasonable attorneys' fees, and for injuries suffered by Retrophin

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alleged herein and arising from Questcor's continuing violations of Section 1 of the Sherman Act, 15 U.S.C. § 1, Section 2 of the Sherman Act, 15 U.S.C. § 2, and Section 7 of the Clayton Act, 15 U.S.C. § 18. Jurisdiction for this action is invoked under Sections 4 and 16 of the Clayton Act, as amended, 15 U.S.C. §§ 15 and 26, and 28 U.S.C. §§ 1331 and 1337(a).

14. Additionally, this Court has diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because the controversy exceeds the sum or value of $75,000 and Retrophin and Questcor are citizens of different states. This Court has supplemental jurisdiction over Retrophin's state law claims pursuant to 28 U.S.C. § 1367(a).

15. Venue in this Court exists by virtue of Sections 4 and 12 of the Clayton Act, as amended, 15 U.S.C. §§ 15 and 22, and 28 U.S.C. § 1391(c). Defendant Questcor is found, has agents, transacts and is doing business in this District, and the unlawful activities complained of herein were carried on, in substantial part, within this District.

16. Defendant is subject to personal jurisdiction in this Court because it resides in this District and transacts business in this District.

Trade and Commerce

17. The pharmaceutical products at issue in this case are sold in Interstate Commerce, and the unlawful activities alleged in this Complaint have occurred in, and have had and will have, a substantial effect upon, Interstate Commerce.

The Relevant Markets

18. There are a number of separate relevant product markets at issue in this case. They include: (a) the market for ACTH therapeutic drugs (the "ACTH Therapeutic Drug Market"); (b) the market for first-line drug treatments for Infantile Spasms (the "Infantile Spasms Market"); and (c) the market for treatments of last resort for Nephrotic Syndrome for those patients who do not respond to or cannot tolerate primary and secondary treatments for that disease (the "Nephrotic Syndrome

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Market"). The relevant geographic markets for each of these three relevant product markets is the United States, since drugs available in any of these markets are subject to FDA regulation. The ACTH Therapeutic Drug, Infantile Spasms, and Nephrotic Syndrome Markets are collectively referred to as the "Relevant Markets."

The ACTH Therapeutic Drug Market

19. ACTH is a drug used to treat certain life threatening and often fatal diseases, including Infantile Spasms and Nephrotic Syndrome. It is a polypeptide tropic hormone produced and secreted by the anterior pituitary gland. In the human body, ACTH activates the Melanocortin System and is referred to as a "Melanocortin agonist." The Melanocortin System affects a wide array of bodily functions ranging from skin pigmentation, inflammation, energy homeostasis and sexual function. As a consequence, ACTH can be used as a therapy for a variety of illnesses resulting from improper functioning of the Melanocortin System, including Infantile Spasms and Nephrotic Syndrome. There is no reasonable interchangeability between drug therapies used to treat other diseases and ACTH drug therapies used to stimulate the Melanocortin System.

20. Acthar is an ACTH. It is the only FDA approved long-acting ACTH available in the US. It is also the only FDA approved long-acting melanocortin agonist available in the US.

21. ACTH products have been approved for use as diagnostic agents which are used to test for the presence of certain conditions or diseases. However, those products are short acting and are not used as therapies in treating illnesses.

22. Consumers faced with a small but significant non-transitory increase in the price of ACTH therapeutic drugs, cannot and will not shift to other classes of drugs such that the increase in price will be rendered unprofitable. This is evidenced by the fact that Questcor, the only supplier of ACTH for therapeutic purposes in the US, has raised the price of a vial of Acthar to $28,000 and is able to maintain that price.

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23. FDA regulation and the difficulty of developing and manufacturing ACTH based therapeutic drugs reduce or eliminate any "supply elasticity" whereby manufacturers of other drug therapies convert their existing manufacturing facilities to the manufacture of ACTH therapeutic drugs.

24. The relevant geographic market for ACTH therapeutic drugs is national because therapeutic ACTH drugs cannot be sold in the US without FDA approval.

The Infantile Spasms Market

25. Babies and little children suffering from Infantile Spasms must have treatments that cure that affliction. Without it they suffer from epileptic type seizures and other symptoms of the disease. If untreated, they may suffer permanent brain or neurological damage and may develop other seizure disorders. The disease can be fatal. Only therapies that treat Infantile Spasm Syndrome can meet the medical needs of these patients. Therapies for other diseases do not cure or control Infantile Spasms and are not substitutes for Infantile Spasm therapeutics. There is no reasonable interchangeability between drug therapies used to treat other diseases and drug therapies used to treat children with Infantile Spasms.

26. Consumers faced with a small but significant non-transitory increase in the price of therapeutic drugs to treat Infantile Spasms, cannot and will not shift to other drug treatments for Infantile Spasms such that the increase in price will be rendered unprofitable. This is evidenced by the fact that Questcor has raised the price of a vial of Acthar to $28,000 and is able to maintain that price.

27. There are also regulatory entry barriers that limit the Relevant Market to first line therapies for Infantile Spasms. In 2010, Questcor obtained from the FDA, "Orphan Drug designation" for Acthar for Infantile Spasms under the Orphan Drug Act. Despite the fact that Acthar is not patented, the Orphan Drug designation gives Questcor a seven year exclusive right to sell Acthar, and its chemical equivalent, for Infantile Spasms with immunity from generic competition. Questcor's exclusive marketing right extends to 2017. Therapies that are excluded by Acthar's Orphans

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Drug Designation (generic versions of Acthar) cannot be labeled or marketed for the treatment of Infantile Spasms.

28. FDA regulation and the difficulty of developing and manufacturing treatments for Infantile Spasms preclude any "supply elasticity" whereby manufacturers of other drug therapies convert their manufacturing facilities to the manufacture of Infantile Spasm therapies.

29. The relevant geographic market for first line Infantile Spasm drug therapies is national because therapeutic drugs cannot be marketed in the US for Infantile Spasms without FDA approval.

The Nephrotic Syndrome Market

30. Nephrotic Syndrome is a condition in which excessive amounts of protein pass through the kidneys and are secreted through the urine. This results in kidney damage and can lead to kidney failure. Nephrotic Syndrome is treated on a first and second line basis with corticosteroids, such as Prednisone, or immunosuppressant drugs. In some patients the disease does not respond to these treatments and in others the patient cannot tolerate the drugs' side effects. In such cases, ACTH (Acthar) is the primary and dominant treatment of last resort. Only therapies that treat Nephrotic Syndrome effectively can meet the medical needs of Nephrotic Syndrome patients who do not respond to or cannot tolerate traditional first and second line therapies for that illness. Therapies for other diseases do not cure or control Nephrotic Syndrome and are not substitutes for last resort treatments for Nephrotic Syndrome. There is no reasonable interchangeability between drug therapies used to treat other diseases and drug therapies used to treat victims of Nephrotic Syndrome.

31. Consumers faced with a small but significant non-transitory increase in the price of last resort therapeutic drugs to treat Nephrotic Syndrome cannot and will not shift to other drug treatments such that the increase in price will be rendered

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unprofitable. This is evidenced by the fact that Questcor has raised the price of a vial of Acthar to $28,000 and is able to maintain that price.

32. There are also regulatory entry barriers that limit the Relevant Market to therapies of last resort for Nephrotic Syndrome. Therapies for other conditions cannot be marketed for the treatment of Nephrotic Syndrome without FDA approval. In addition, it is particularly difficult for the maker of a generic drug to obtain FDA approval when it is trying to prove that its synthetically manufactured product, which is manufactured in a laboratory setting, is the biopharmaceutical equivalent of a drug such as Acthar which is produced from animals.

33. FDA regulation and the difficulty of developing and manufacturing treatments for Nephrotic Syndrome preclude any "supply elasticity" whereby manufacturers of other drug therapies convert their manufacturing facilities to the manufacture of Nephrotic Syndrome therapies.

34. The relevant geographic market for therapies of last resort for Nephrotic Syndrome is national because such therapies cannot be marketed in the US for Nephrotic Syndrome without FDA approval.

Questcor Has Market and Monopoly Power in the Relevant Markets

35. There are no meaningful substitutes for Acthar or ACTH in the Relevant Markets. Nor are manufacturers of other pharmaceutical products able to shift their production to the manufacture of Acthar or other ACTH products. Even if they were able to do so, they could not sell those products without first obtaining FDA approval. Questcor has market and monopoly power in all of the Relevant Markets.

36. Questcor's monopoly power in all three of the Relevant Markets is further evidenced by a single price increase that it imposed in 2007. In that year, Questcor raised the price of Acthar from $1,650 per vial to $23,000 per vial, an overnight increase of over 1,300%. Questcor's ability to make that price increase "stick" is conclusive evidence of its market and monopoly power.

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The ACTH Therapeutic Drug Market

37. In the ACTH Therapeutic Drug Market, Acthar is the only FDA approved long acting ACTH therapeutic drug available to consumers in the United States.

38. Questcor's market and monopoly power in the ACTH Therapeutic Drug Market is further protected by the fact that other chemical variations of ACTH for use as therapeutic drugs require FDA approval for sale in the United States.

39. Questcor effectively has 100% of the market for ACTH Therapeutic Drugs. It has market and monopoly power in that market which is dramatically demonstrated by its continued ability to charge $28,000 for a vial of Acthar.

The Infantile Spasms Market

40. In the Infantile Spasms Market, Acthar is considered the "gold standard" of treatment.

41. Questcor's market and monopoly power in the Infantile Spasms Market is protected by the Orphan Drug Designation that protects Questcor from generic competition to Acthar. Its monopoly position is further protected by the fact that alternative therapies, that would not be precluded by the Orphan Designation, require FDA approval if they are to be marketed as therapies for Infantile Spasms.

42. Questcor admits that it has more than 50% share of the Infantile Spasms Market and its actual market share may be far greater. Questcor's market and monopoly power in the Infantile Spasms Market is demonstrated dramatically by its continued ability to charge $28,000 for a vial of Acthar.

The Nephrotic Syndrome Market

43. In the Nephrotic Syndrome Market, Acthar is the primary and dominant treatment of last resort for Nephrotic Syndrome patients who do not respond to or cannot tolerate first or second line treatments for that disease.

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44. Questcor's market and monopoly power in the Nephrotic Syndrome Market is further protected by the fact that alternative drug therapies require FDA approval if they are to be marketed as therapies for Nephrotic Syndrome.

45. Questcor's market and monopoly power in the Nephrotic Syndrome Market is demonstrated dramatically by its continued ability to charge $28,000 for a vial of Acthar.

Retrophin's Acquisition of Synacthen Threatened Questcor's Monopoly

46. Synacthen is an ACTH derivative that has been sold for years outside of the US and has been used successfully to treat patients with Infantile Spasms and Nephrotic Syndrome in other countries. It has not been commercially developed in the US and it has not been submitted to the FDA for approval for therapeutic use.

47. Synacthen is similar, but not chemically identical, to Acthar. Both drugs share the identical sequence of the first 24 amino acids in their respective molecules. This sequence of amino acids gives both drugs their therapeutic properties. Acthar, however, has a longer amino acid chain. The two drugs are also produced in very different ways. Acthar is "porcine derived." It is extracted from the pituitary gland found in the brains of slaughtered pigs. Synacthen, by contrast, is synthetically manufactured in a laboratory setting. These differences give Synacthen three competitive advantages over Acthar. First, Synacthen is less expensive to manufacture. Second, because it is manufactured in a controlled setting, the product is less susceptible to variation. Third, consumers are more comfortable knowing that the drugs they are taking – or giving to their infants – are produced in a sterile environment rather than being derived from slaughtered animals.

48. Retrophin planned to purchase the rights to Synacthen, obtain FDA approval for its use as a therapeutic, and enter the Relevant Markets in competition with Questcor. Retrophin planned to price Synacthen at a fraction of the price charged by Questcor and use its competitive pricing and Synacthen's other competitive advantages to take substantial market share from Acthar.

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49. In the late summer of 2012, Retrophin entered negotiations with Novartis to purchase the rights to manufacture and sell Synacthen in the US. After approximately nine months of due diligence and negotiations, Retrophin and Novartis agreed to terms on which Retrophin would acquire the rights to Synacthen. Final documents had been prepared and were merely awaiting the parties' signatures. The signing was set for June 11, 2013. Retrophin had prepared a press release announcing the deal.

50. In anticipation of the transaction, Retrophin had prepared a plan to obtain regulatory approvals for, and sell Synacthen. It devised a strategy for going directly to Phase III clinical drug trials in order to obtain FDA approval for the use of Synacthen to treat Infantile Spasms and Nephrotic Syndrome. It also planned to file a Treatment Investigational New Drug Application which, if approved by the FDA, would have allowed Retrophin to offer Synacthen to patients for free while it was awaiting FDA approval to market Synacthen for Infantile Spasms and Nephrotic Syndrome. This would have given patients immediate relief from Questcor's pricing and would have developed substantial goodwill for Retrophin and Synacthen in both the patient and medical communities. Retrophin believed that the history of Synacthen's use in other countries would aid it in obtaining FDA approval.

51. In anticipation of the product launch, Retrophin had put in place a clinical apparatus to conduct clinical trials necessary to obtain FDA approval. It planned to begin to market Synacthen upon FDA approval.

52. Given its expertise as a biopharmaceutical company focusing on rare diseases, Retrophin was ready, willing and able to enter the Relevant Markets with Synacthen subject to FDA approval. Retrophin's entry into the Relevant Markets would have broken Questcor's monopoly. The result would have been unambiguously procompetitive. Retrophin's entry into the market and its introduction of Synacthen as an alternative to Acthar would have benefitted all participants in the markets – other than Questcor. Prices to patients and payors would have dropped;

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patients who were unable to pay for the drug would have been able to get it; other patients who were forced by Questcor's pricing to limit their dosages of the drug would have been able to take the medically prescribed amounts; and Retrophin would have earned substantial profits from sales of its product.

Questcor Illegally Acquires Synacthen to Preserve its Monopoly

53. Faced with a direct threat to its monopoly, Questcor acted to preserve its market dominance and its ability to charge extraordinary prices for Acthar. It swept in and secretly negotiated a deal to buy the rights to Synacthen from Novartis.

54. On June 11, 2013, the very day that Retrophin and Novartis were to sign their agreement, Questcor acquired the rights to Synacthen. The acquisition was closed on the day of the announcement. Questcor made no Premerger Notification filing with the Department of Justice and the Federal Trade Commission under the Hart Scott Rodino Act Antitrust Improvements Act of 1976. Nor did it observe the waiting period provided by the Hart Scott Act before closing the acquisition.

55. As part of the Agreement, the entire risk of an antitrust challenge to the transaction is borne by Questcor. The Agreement between Novartis and Questcor provides that Novartis receives the full consideration it is entitled to from Questcor even if the US antitrust enforcement agencies (The Federal Trade Commission or the Department of Justice) force Questcor to divest its rights in Synacthen. If such a divestiture occurs, the Agreement provides that Novartis keeps the entire $60 million that Questcor has paid it and Questcor will make all future milestone payments required by the Agreement – an amount in excess of $75 million. In short, the acquisition of the rights to Synacthen was so important to Questcor that it put at least $135 million at risk to keep Synacthen out of Retrophin's hands. There was no procompetitive aspect of Questcor's acquisition of Synacthen.

56. Questcor's acquisition of the rights to Synacthen unreasonably restrained trade, maintained Questcor's monopolies and may result in a substantial lessening of competition in the Relevant Markets. As a result of Questcor's acquisition of the

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rights to Synacthen, prices to patients and payors for Acthar will remain at monopoly levels; patients who are unable to pay for the drug will not be been able to get it; other patients who are forced by Questcor's pricing to limit their dosages of the drug will not be able to take the medically prescribed amounts; and Retrophin will not earn the substantial profits it expected to earn from selling Synacthen at a fraction of the price Questcor charges for Acthar.

Retrophin Is Continuing to Try to Enter the Relevant Markets

57. Despite Questcor's anticompetitive and monopolistic conduct, Retrophin is continuing to try to enter the Relevant Product Markets. To that end, it has taken the highly unusual step of trying to create from scratch a drug – that it has designated as RE-034 – that will match Synacthen. Retrophin is endeavoring to create a new formulation of the drug that will incorporate the same active pharmaceutical ingredient used in Synacthen and match Synacthen's therapeutic effects for patients suffering from Infantile Spasms and Nephrotic Syndrome.

58. Retrophin's efforts to develop RE-034 will take substantial time and money and will require FDA approval. It will also require that the drug successfully complete both Phase I and Phase III clinical trials for both Infantile Spasms and Nephrotic Syndrome. There is no guarantee that RE-034 will succeed in the clinical trials or that Retrophin will succeed in obtaining FDA approval or entering the Relevant Markets.

59. Entering the Relevant Markets through RE-034 is more difficult, risky and time consuming than entering those markets through Synacthen. Synacthen is an existing product that has been manufactured and used outside of the US for decades in the treatment of a variety of illnesses, including Infantile Spasms and Nephrotic Syndrome. The owner of the rights to Synacthen has the information, know-how and ability to manufacture the drug and has decades of clinical data from outside the United States that can be used to facilitate and speed the regulatory approval process

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in the US. Retrophin will need to develop all of that knowledge from scratch in seeking to enter the Relevant Markets with RE-034.

60. Entering the Relevant Markets through RE-034 will be more difficult, less likely to succeed and take longer than entry into those markets through the acquisition of Synacthen. Questcor's conduct has delayed, and may entirely foreclose, Retrophin from entering the Relevant Markets.

Questcor Has Damaged Competition in the Relevant Markets and Has Caused Retrophin to Suffer Both Injury in Fact and Antitrust Injury

61. Questcor's unlawful acquisition of the rights to Synacthen has foreclosed or delayed Retrophin from entering the Relevant Markets, has restrained trade, and has preserved and entrenched Questcor's monopoly and may substantially lessen competition. As a result, competition in the Relevant Markets has been damaged and Retrophin has been injured. Those injuries are intertwined and inseparable. Excluding or delaying Retrophin from entering the Relevant Markets with Synacthen was and is an integral aspect of Questcor's anticompetitive conduct.

62. Retrophin has suffered and continues to suffer injury in fact from Questcor's acquisition of the rights to Synacthen and the preservation of its monopoly.

63. Retrophin has suffered and continues to suffer antitrust injury from Questcor's acquisition of the rights to Synacthen and the preservation of its monopoly. Retrophin has been injured directly as a result of Questcor's unlawful conduct. Retrophin is a potential entrant into the Relevant Markets and, but for Questcor's unlawful conduct, would be entering those markets with Synacthen. There are no aspects of Questcor's conduct that are beneficial to competition. Retrophin's injury is an integral aspect of Questcor's unlawful conduct; flows from that which renders Questcor's conduct unlawful; and its injury is of the type the antitrust laws were intended to prevent.

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FIRST CAUSE OF ACTION

(COMBINATION IN THE RESTRAINT OF TRADE IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT)

64. Retrophin repeats and realleges the allegations set forth in paragraphs 1 through 63 as if fully set forth herein.

65. In acquiring the rights to Synacthen, Questcor entered into a contract, conspiracy or combination that unreasonably restrains trade in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

66. Questcor's acquisition of the rights to Synacthen unlawfully and unreasonably restrains trade by preventing or delaying Retrophin from entering the Relevant Markets and challenging Questcor's market power in those markets.

67. Questcor's violation of Section 1 of the Sherman Act has caused, and will cause, damages to Retrophin in an amount to be determined at trial, such damages to be trebled in accordance with Section 4 of the Clayton Act, 15 U.S.C. § 15.

68. Questcor's unlawful conduct is ongoing, irreparably injures Retrophin, harms the public interest, and unless restrained will continue. Retrophin has no adequate remedy at law.

SECOND CAUSE OF ACTION

(MONOPOLIZATION IN VIOLATION OF SECTION 2 OF THE SHERMAN ACT)

69. Retrophin repeats and realleges the allegations set forth in paragraphs 1 through 68 as if fully set forth herein.

70. Questcor has monopoly power in the Relevant Markets. In acquiring the rights to Synacthen in the US, Questcor has intentionally acted to maintain and entrench its monopoly position in Relevant Markets, and has done so, in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2.

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71. Questcor's violation of Section 2 of the Sherman Act has caused, and will cause, damages to Retrophin in an amount to be determined at trial, such damages to be trebled in accordance with Section 4 of the Clayton Act, 15 U.S.C. § 15.

72. Questcor's unlawful conduct is ongoing, irreparably injures Retrophin, harms the public interest, and unless restrained will continue. Retrophin has no adequate remedy at law.

THIRD CAUSE OF ACTION

(ATTEMPTED MONOPOLIZATION IN VIOLATION OF SECTION 2 OF THE SHERMAN ACT)

73. Retrophin repeats and realleges the allegations set forth in paragraphs 1 through 72 as if fully set forth herein.

74. In acquiring the rights to Synacthen, Questcor has engaged in monopolistic and anticompetitive conduct with the specific purpose and intent of monopolizing the Relevant Markets in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2.

75. The sole purpose of Questcor's acquisition of the rights to Synacthen is to enable Questcor to gain or maintain a monopoly position in the Relevant Markets.

76. A dangerous probability exists that Questcor has succeeded, and if not restrained, will continue to succeed in monopolizing the Relevant Markets.

77. Questcor's acts of attempted monopolization has unlawfully prevented and delayed Retrophin from entering the Relevant Markets and otherwise injure competition in those markets by reducing choice, inflating prices, and lessening innovation.

78. Questcor's violation of Section 2 of the Sherman Act has caused, and will cause, damages to Retrophin in an amount to be determined at trial, such damages to be trebled in accordance with Section 4 of the Clayton Act, 15 U.S.C. § 15.

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79. Questcor's unlawful conduct is ongoing, irreparably injures Retrophin, harms the public interest, and unless restrained will continue. Retrophin has no adequate remedy at law.

FOURTH CAUSE OF ACTION

(UNLAWFUL MERGER IN VIOLATION OF SECTION 7 OF THE CLAYTON ACT)

80. Retrophin repeats and realleges the allegations set forth in paragraphs 1 through 79 as if fully set forth herein.

81. Questcor's acquisition of the rights to Synacthen is likely to substantially lessen competition in interstate trade and commerce in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

82. Questcor's acquisition of the rights to Synacthen is likely to result in a substantial lessening of competition in the Relevant Markets.

83. Questcor's violation of Section 7 of the Clayton Act has caused, and will cause, damages to Retrophin in an amount to be determined at trial, such damages to be trebled in accordance with Section 4 of the Clayton Act, 15 U.S.C. § 15.

84. Questcor's unlawful conduct is ongoing, irreparably injures Retrophin, harms the public interest, and unless restrained will continue. Retrophin has no adequate remedy at law.

FIFTH CAUSE OF ACTION

(VIOLATION OF CALIFORNIA ANTITRUST LAWS)

85. Retrophin repeats and realleges the allegations set forth in paragraphs 1 through 84 as if fully set forth herein.

86. In acquiring the rights to Synacthen, Questcor entered into and engaged in a continuing unlawful trust in restraint of the trade and commerce described above in violation of the California antitrust laws referenced below. Questcor has acted in violation of these laws in an effort to maintain, entrench, and/or create a monopoly,

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and otherwise injure competition in the Relevant Markets. Questcor's conduct substantially affected commerce in California.

87. In acquiring the rights to Synacthen in the US, Questcor has maintained and entrenched its monopoly position in the Relevant Markets.

88. Questcor's acquisition of the rights to Synacthen is likely to result in a substantial lessening of competition in the Relevant Markets.

89. By reason of the foregoing, Questcor violated California's Cartwright Act, California Business and Professions Code §§ 16720 *et seq.*

90. Questcor's violation of California's Cartwright Act, California Business and Professions Code §§ 16720 *et seq.* has caused, and will cause, damages to Retrophin in an amount to be determined at trial, with such damages to be trebled.

91. Questcor's unlawful conduct is ongoing, irreparably injures Retrophin, harms the public interest, and unless restrained will continue. Retrophin has no adequate remedy at law.

SIXTH CAUSE OF ACTION

(UNFAIR COMPETITION UNDER CAL. BUS. & PROF. CODE § 17200 *ET SEQ.*)

92. Retrophin repeats and realleges the allegations set forth in paragraphs 1 through 91 as if fully set forth herein.

93. California Unfair Competition Law, Business and Professions Code Section 17200 *et seq.*, provides that "unfair competition shall mean and include any unlawful, unfair or fraudulent business act."

94. Questcor's conduct as alleged herein meets the "unlawfulness" prong of California Business and Professions Code §§ 17200 *et seq.* Questcor has committed and continues to commit unlawful business practices by illegally acquiring the rights to Synacthen and engaging in anticompetitive and monopolistic conduct in violation of antitrust laws.

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95. Questcor's conduct as alleged herein also meets the "unfair" prong of California Business and Professions Code §§ 17200 *et seq*. Questcor's anticompetitive and monopolistic conduct harms the public interest, threatens an incipient violation of an antitrust law and/or violates the policy or spirit of those laws because its effects are comparable to or the same as a violation of the law, or otherwise significantly threatens or harms competition.

96. Pursuant to California Business and Professions Code § 17203, Retrophin seeks the disgorgement of Questcor's profits earned by its unlawful and/or unfair business practices to the extent it constitutes restitution to Retrophin.

97. Pursuant to California Business and Professions Code § 17203, Retrophin seeks an order of this court enjoining Questcor from continuing to engage, use, or employ the unlawful and/or unfair business practices complained of herein.

98. Questcor's wrongful conduct has caused and, if it continues, will continue to cause irreparable harm to Retrophin that cannot be fully compensated by money and for which Retrophin has no adequate remedy at law. Retrophin is thus entitled to permanent injunctive relief preventing Questcor from continuing to engage in the conduct alleged in this Complaint.

PRAYER FOR RELIEF

WHEREFORE, Retrophin respectfully demands judgment against Questcor:

A. DECLARING that Questcor's acquisition of the rights to Synacthen is an unlawful contract, combination or conspiracy in restraint of trade in violation of Section 1 of the Sherman Act;

B. DECLARING that Questcor's acquisition of the rights to Synacthen constitutes unlawful monopolization of the Relevant Markets in violation of Section 2 of the Sherman Act;

C. DECLARING that Questcor's acquisition of the rights to Synacthen constitutes an unlawful attempt to monopolize the Relevant Markets in violation of Section 2 of the Sherman Act;

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D. DECLARING that Questcor's acquisition of the rights to Synacthen constitutes an acquisition that may result in a substantial lessening of competition in the Relevant Markets in violation of Section 7 of the Clayton Act;

E. DECLARING that Questcor's acquisition of the rights to Synacthen constitutes an unlawful trust in restraint of trade and commerce in violation of California Business and Professions Code §§ 16720 *et seq.*;

F. DECLARING that Questcor's acquisition of the rights to Synacthen constitutes unfair competition in violation of California Business and Professions Code § 17200 *et seq.*;

G. PERMANENTLY ENJOINING Questcor from enforcing or maintaining its Rights to Synacthen under its agreement with Novartis or any similar formal or informal agreement;

H. PERMANENTLY ENJOINING Questcor from engaging in further anticompetitive conduct in violation of Section 1 of the Sherman Act;

I. PERMANENTLY ENJOINING Questcor from engaging in further anticompetitive conduct in violation of Section 2 of the Sherman Act;

J. PERMANENTLY ENJOINING Questcor from engaging in further anticompetitive conduct in violation of Section 7 of the Clayton Act;

K. PERMANENTLY ENJOINING Questcor from engaging in further anticompetitive conduct in violation of California Business and Professions Code §§ 16720, *et seq.*;

L. PERMANENTLY ENJOINING Questcor from engaging in further unlawful and/or unfair business practices in violation of California Business and Professions Code § 17200 *et seq.*;

M. DISGORGING any profits generated by Questcor as a result of its unlawful and/or unfair business practices to the extent it constitutes restitution to Retrophin;

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N. AWARDING Retrophin damages in an amount to be proved at trial, such damages to be trebled, including its costs and attorneys' fees, pursuant to Section 4 of the Clayton Act, 15 U.S.C. § 15 and/or California's Cartwright Act, California Business and Professions Code §§ 16720, *et seq.*;

O. AWARDING Retrophin its costs, expenses and attorneys' fees incurred in connection with the action;

P. AWARDING Retrophin interest to the maximum extent permitted by law; and

Q. GRANTING Retrophin such other and further relief as this Court deems just and proper.

Dated: January 7, 2014

KATTEN MUCHIN ROSENMAN LLP

By: K. Holland

Kristin L. Holland
Attorneys for Plaintiff Retrophin, Inc.

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DEMAND FOR JURY TRIAL

Retrophin hereby demands a trial by jury on all of its claims and causes of action.

Dated: January 7, 2014

KATTEN MUCHIN ROSENMAN LLP

By: K. Holland

Kristin L. Holland
Attorneys for Plaintiff Retrophin, Inc.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Josephine L. Staton and the assigned Magistrate Judge is Jean P. Rosenbluth .

The case number on all documents filed with the Court should read as follows:

8:14-cv-00026-JLS(JPRx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

January 7, 2014
Date

By APEDRO
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☒ Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☐ Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

Retrophin, Inc.

DEFENDANTS (Check box if you are representing yourself ☐)

Questcor Pharmaceuticals, Inc.

(b) County of Residence of First Listed Plaintiff New York, NY
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Orange, CA
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (*Firm Name, Address and Telephone Number*) If you are representing yourself, provide the same information.

Katten Muchin Rosenman LLP
2029 Century Park East, Suite 2600
Los Angeles, CA 90067-3012
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Attorneys (*Firm Name, Address and Telephone Number*) If you are representing yourself, provide the same information.

N/A

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff
- ☒ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant
- ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business in this State	☐ 4	☒ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☒ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. ORIGIN (Place an X in one box only.)

☒ 1. Original Proceeding ☐ 2. Removed from State Court ☐ 3. Remanded from Appellate Court ☐ 4. Reinstated or Reopened ☐ 5. Transferred from Another District (Specify) ☐ 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: ☐ Yes ☒ No ☒ **MONEY DEMANDED IN COMPLAINT:** $ Over $75k, TBD

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
Plaintiff is suing defendant for entering an illegal agreement and engaging in conduct that violates federal and state antitrust and competition laws, 15 U.S.C. §§ 1, 2, 18, and California Business and Professions Code §§ 16720, et seq, California Business and Professions Code §§ 17200, et seq

VII. NATURE OF SUIT (Place an X in one box only).

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☒ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/Etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced & Corrupt Org.
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Info. Act
- ☐ 896 Arbitration
- ☐ 899 Admin. Procedures Act/Review of Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loan (Excl. Vet.)
- ☐ 153 Recovery of Overpayment of Vet. Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment

REAL PROPERTY CONT.
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Fed. Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury-Med Malpratice
- ☐ 365 Personal Injury-Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

TORTS PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accomodations
- ☐ 445 American with Disabilities-Employment
- ☐ 446 American with Disabilities-Other
- ☐ 448 Education

PRISONER PETITIONS
Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus/Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Ret. Inc. Security Act

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405 (g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405 (g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number: SA CV14-00026

UNITED S[illegible]ES DISTRICT COURT, CENTRAL DISTRICT OF C[illegible]FORNIA
CIVIL COVER SHEET

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court? ☐ Yes ☒ No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	STATE CASE WAS PENDING IN THE COUNTY OF:	INITIAL DIVISION IN CACD IS:
	☐ Los Angeles	Western
	☐ Ventura, Santa Barbara, or San Luis Obispo	Western
	☐ Orange	Southern
	☐ Riverside or San Bernardino	Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action? ☐ Yes ☒ No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	If the United States, or one of its agencies or employees, is a party, is it:		INITIAL DIVISION IN CACD IS:
	A PLAINTIFF? Then check the box below for the county in which the majority of DEFENDANTS reside.	A DEFENDANT? Then check the box below for the county in which the majority of PLAINTIFFS reside.	
	☐ Los Angeles	☐ Los Angeles	Western
	☐ Ventura, Santa Barbara, or San Luis Obispo	☐ Ventura, Santa Barbara, or San Luis Obispo	Western
	☐ Orange	☐ Orange	Southern
	☐ Riverside or San Bernardino	☐ Riverside or San Bernardino	Eastern
	☐ Other	☐ Other	Western

Question C: Location of plaintiffs, defendants, and claims? (Make only one selection per row)	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	☐	☐	☐	☐	☒	☐
Indicate the location in which a majority of defendants reside:	☐	☐	☒	☐	☐	☐
Indicate the location in which a majority of claims arose:	☐	☐	☒	☐	☐	☐

C.1. Is either of the following true? If so, check the one that applies:

☒ 2 or more answers in Column C

☐ only 1 answer in Column C and no answers in Column D

Your case will initially be assigned to the SOUTHERN DIVISION.
Enter "Southern" in response to Question D, below.

If none applies, answer question C2 to the right. →

C.2. Is either of the following true? If so, check the one that applies:

☐ 2 or more answers in Column D

☐ only 1 answer in Column D and no answers in Column C

Your case will initially be assigned to the EASTERN DIVISION.
Enter "Eastern" in response to Question D, below.

If none applies, go to the box below. ↓

Your case will initially be assigned to the WESTERN DIVISION.
Enter "Western" in response to Question D below.

Question D: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, or C above: →	Southern Division

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

IX(a). IDENTICAL CASES: Has this action been previously filed **in this court** and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed **in this court** that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

☐ A. Arise from the same or closely related transactions, happenings, or events; or

☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or

☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or

☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT): _____ DATE: 1/7/2014

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))